

IC 6-3.5-2

Chapter 2. Employment Tax

IC 6-3.5-2-1

Definitions

Sec. 1. As used in this chapter:

(1) "Agency" means a board, commission, division, bureau, committee, authority, military body, college, university, or other instrumentality.

(2) "Compensation" means gross income from services rendered as that term is defined by section 61(a) of the Internal Revenue Code.

(3) "Employee" means any individual permitted to work for remuneration by any employer, but excluding any individual performing:

- (i) agricultural labor as that term is defined in IC 22-2-2-3(m);
- (ii) domestic service solely on a daily basis in a private home;
- (iii) newspaper carrier delivery or distribution service if the individual is under the age of eighteen (18) years; or
- (iv) services in the employ of one's father, mother, son, daughter, or spouse.

(4) "Full time employee" means an employee who received compensation from employment of at least nine hundred dollars (\$900) in any calendar quarter of a year from an employer who is subject to the tax imposed by this chapter; "full time employee" shall include a self-employed person who receives compensation from employment of at least nine hundred dollars (\$900) in any calendar quarter of a year.

(5) "Employer" means any natural person, receiver, administrator, executor, trustee, trustee in bankruptcy, trust, estate, firm, partnership (general or limited), joint venture, company, limited liability company, or any form of unincorporated business, corporation (foreign or domestic, for profit or not-for-profit) who or which is doing business within the county.

(6) "Doing business within the county" means employing individuals to work in whole or in part, within the county and one (1) of the following:

- (i) maintaining a fixed place of business in the county;
- (ii) owning or leasing property within the county;
- (iii) maintaining a stock of tangible personal property within the county;
- (iv) employing or loaning capital or property within the county;
- or
- (v) employing persons as employees or independent contractors, to solicit business within the county.

(7) "Person" includes a sole proprietorship, partnership, association, corporation, limited liability company, fiduciary, or individual.

(8) "Principally employed in the county" means an employee who devotes more than fifty percent (50%) of the time which he works for his employer to services which he performs in the taxing county.

(9) "Political subdivision" means a county, township, town, city, separate municipal corporation, special taxing district, or public school corporation.

(10) "County council" includes a city-county council of a consolidated city.

(Formerly: Acts 1975, P.L.62, SEC.1.) As amended by Acts 1981, P.L.11, SEC.32; P.L.2-1987, SEC.22; P.L.8-1993, SEC.91.

IC 6-3.5-2-2

Counties over 400,000 but less than 700,000; ordinance imposing tax; maximum rate

Sec. 2. Before July 1 of any year, the county council of a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) may adopt an ordinance to impose an employment tax on each employer and employee described in section 3 of this chapter. The county council may impose the employment tax at a rate not to exceed fifty cents (\$0.50) per employee per month. Any tax so imposed shall be paid by the employer for each full-time employee and by each such employee at the same rate. A self-employed person shall be subject to tax only as an employee. No other county may adopt an ordinance to impose an employment tax under this chapter.

(Formerly: Acts 1975, P.L.62, SEC.1.) As amended by Acts 1979, P.L.74, SEC.1; P.L.12-1992, SEC.28.

IC 6-3.5-2-3

Employers and employees subject to tax

Sec. 3. If the county council adopts an ordinance to impose the employment tax, employers and employees are subject to the tax if:

(1) in the case of an employer, he employs at least one (1) full time employee who is principally employed in the county during any portion of a month after the date such ordinance is adopted; and

(2) in the case of an employee, he is principally employed in the county by an employer described in clause (1) of this section during any portion of a month after the date the ordinance is adopted.

(Formerly: Acts 1975, P.L.62, SEC.1.)

IC 6-3.5-2-4

Persons exempt from tax

Sec. 4. The following persons are exempt from the employment tax:

- (1) the United States;
- (2) an agency of the United States;
- (3) this state;
- (4) an agency of this state;
- (5) a political subdivision of this state; and
- (6) a taxpayer described in IC 6-2.5-5-21(b)(1).

However, employees of such persons are not exempt from the employment tax.

(Formerly: Acts 1975, P.L.62, SEC.1.) As amended by Acts 1981,

P.L. 77, SEC. 16; P.L. 192-2002(ss), SEC. 120.

IC 6-3.5-2-5

Rescission of tax

Sec. 5. Before July 1 of any year, the county council may adopt an ordinance to rescind the employment tax. If the county council adopts such an ordinance, the tax does not apply after December 31 of the year the ordinance is adopted.

However, if the adoption of the employment tax is conditioned upon any other county adopting the tax, the county council may rescind the tax before it becomes effective if the other county does not adopt the tax.

(Formerly: Acts 1975, P.L. 62, SEC. 1.)

IC 6-3.5-2-6

Increasing or decreasing tax

Sec. 6. Before July 1 of any year, the county council may adopt an ordinance to increase or decrease the employment tax rate. The new tax rate shall become effective on January 1 of the year immediately following the year in which the ordinance is adopted.

(Formerly: Acts 1975, P.L. 62, SEC. 1.)

IC 6-3.5-2-7

Copies of ordinances

Sec. 7. If a county council adopts an ordinance to impose, rescind, or change the rate of the employment tax, the county council shall send a copy of the ordinance to the county auditor and to the county treasurer.

(Formerly: Acts 1975, P.L. 62, SEC. 1.)

IC 6-3.5-2-8

Quarterly payments

Sec. 8. An employer described in section 3 of this chapter shall pay employment tax for each calendar quarter equal to the sum of the following:

(1) for each month during which the employer employed at least one (1) full time employee who was principally employed in the county during that month, the tax for such month equals the total number of full time employees principally employed within the county during that month multiplied by the current tax rate; and

(2) for each employee described in clause (1) of this section the employer is required to withhold the tax imposed on the employee for that month under this chapter. The employer shall withhold the tax from the employee, as an agent for the county. Notwithstanding the amount of employment tax collected from its employees, each employer is liable to the county for the tax imposed on its employees under this chapter. Every employer and every officer, employee or member of the employer who is responsible for withholding the taxes from employees is personally liable for the taxes. The taxes to be withheld by the employer constitute a trust fund in the hands of the

employer and are owned by the county.
(Formerly: Acts 1975, P.L.62, SEC.1.)

IC 6-3.5-2-9

Filing returns; record keeping requirement

Sec. 9. Each employer described in section 3 of this chapter shall pay the total employment tax due for each calendar quarter to the county treasurer within thirty (30) days after the end of the quarter. Concurrently with the payment of the tax, the employer shall file an employment tax return with the county treasurer on a form prescribed by the state board of accounts. Each employer within the county shall maintain for a period of five (5) years adequate records to determine its tax liability for a calendar quarter. Upon request of the county treasurer, the Indiana department of revenue shall conduct an audit of an employer's employment tax records.

(Formerly: Acts 1975, P.L.62, SEC.1.)

IC 6-3.5-2-10

County mass transportation fund; deposit of revenue

Sec. 10. The county treasurer shall deposit all employment tax revenues in a fund to be known as the "_____ county mass transportation fund". Money which is credited to a county's mass transportation fund may be used only to purchase, establish, operate, repair, or maintain a public mass transportation system. The county council may, in the manner provided by law, appropriate money from the fund to a public corporation which is authorized to purchase, establish, operate, repair, or maintain such a system if the system is located, either entirely or partially, within the county.

(Formerly: Acts 1975, P.L.62, SEC.1.)

IC 6-3.5-2-11

Tokens for public passenger transportation

Sec. 11. The county council may establish a method of provide to each taxpayer at the time the employment tax is paid, tokens, coupons or indicia, equal to the tax paid, which are acceptable for passenger transportation on any transportation facility operated by or under contract with the county or public transportation authority.

(Formerly: Acts 1975, P.L.62, SEC.1.)

IC 6-3.5-2-12

Estimated tax revenues

Sec. 12. On or before August 1st of each year, the auditor of a county which has adopted the employment tax shall provide the county council with an estimate of the employment tax revenues to be credited to the county mass transportation fund during the next calendar year. The county shall show the estimated employment tax revenues in its budget estimate for that calendar year.

(Formerly: Acts 1975, P.L.62, SEC.1.)

IC 6-3.5-2-13

Interest penalties

Sec. 13. If an employer fails to pay all or any part of the employment tax due for a calendar quarter within the time prescribed by section 9 of this chapter, he shall pay interest on the unpaid amount at the rate of twelve percent (12%) per year.

(Formerly: Acts 1975, P.L. 62, SEC.1.)